IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3085 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAHENDRA @ HAKLO BHUPATBHAI RATHOD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3085 of 2003

MR AR SHAIKH for Petitioner No. 1

MS NANDINI JOSHI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 16/05/2003

ORAL JUDGEMENT

By filing this petition, the petitioner detenu has challenged the detention order dated 21st October, 2002. By the said order, the petitioner is detained as a Dangerous Person under Prevention of Anti Social Activities Act, 1985. The order of detention is challenged by the petitioner by way of this petition.

2. The activity of the petitioner is highlighted in the detention order. There is reference of about 5

criminal cases which are pending against the petitioner. The petitioner detenu has challenged the said order on various grounds.

3. On behalf of the petitioner, it is argued that the last registered case against the petitioner is of 1st August, 2002 and that the detention order is passed on 21st October, 2002. It is submitted that there is a delay in passing the detention order as there is a delay of about two months. The learned advocate has relied upon certain judgement of this Court in this behalf.

4. The learned AGP Ms. Nandini Joshi submitted that after the petitioner was released on bail, statements of some witnesses were taken to the effect that the petitioner's activities are dangerous. However, no reply has been filed at all on behalf of the respondents. Since the delay is not explained by the detaining authority, the order of detention is required to be quashed and set aside and is accordingly set aside.

5. On the aforesaid view of the matter, the petition succeeds and the same is allowed. The order of detention under challenge is quashed and set aside. The petitioner detenu is ordered to be set at liberty forthwith if he is not required in any other case. Rule is made absolute accordingly. No order as to cost. Direct service is permitted.

(P.B.Majmudar,J)

Jayanti*